

## Notice of a decision to Vary

### A Repairing Standard Enforcement Order

#### Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/IV44/155/10

Re: Property at Torr Sitheig, Teangue, Sleat, Isle of Skye, IV44 8RE ("the Property")

Title No: ALL and WHOLE the subjects known as and forming Torr Sitheig, Sleat, Isle of Skye, IV44 8RE forming part and portion of the Estate of Eilean Iarmain being the subjects more particularly described in Disposition in favour of Sir Iain Andrew Noble recorded in the General Register of Sasines for the County of Inverness on 31<sup>st</sup> July 1974

#### The Parties:-

THE EXECUTORS OF THE ESTATE OF THE LATE SIR IAIN ANDREW NOBLE lately residing at Ardkinglas and Eilean Iarmain, Baronet, Fearnan Eilean Iarmain, and An t-Eilean Sgitheanach, Isle of Skye the Executors being Lady Noble, Christopher Mackenzie, James Galbraith, Nigel Pollock and Robin Malcolm all c/o Gillespie MacAndrew LLP, 5 Atholl Crescent, Edinburgh, EH3 8EJ ("the Landlord")

WILLIAM CORBETT residing at Torr Sitheig, Teangue, Sleat, Isle of Skye, IV44 8RE ("the Tenant")

#### NOTICE TO THE EXECUTORS OF THE ESTATE OF THE LATE SIR IAIN ANDREW NOBLE ("the Landlord")

The Private Rented Housing Committee having determined on 27 June 2012 that the **Repairing Standard Enforcement Order** relative to the Property dated 19<sup>th</sup> April 2011 should be varied, the said **Repairing Standard Enforcement Order** is hereby varied with effect from the date of service of this Notice in the following respects:-

1. The period allowed for the completion of the work required by the order is extended for a period of one year from the date of service of this Notice.

Subsection 25(3) of the Housing (Scotland) Act 2006 does not apply in this case.

**A landlord or a tenant aggrieved by this decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.**

Where such an appeal is made, the effect of the variation is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the variation will be treated as having effect from the day on which the appeal is abandoned or so determined.





## Statement of decision of the Private Rented Housing Committee under Section 25 (1) of the Housing (Scotland) Act 2006

prhp Ref: PRHP/IV44/155/10

Re: Property at Torr Sitheig, Teangue, Sleat, Isle of Skye, IV44 8RE ("the Property")

### The Parties:-

**WILLIAM CORBETT** residing at Torr Sitheig, Teangue, Sleat, Isle of Skye, IV44 8RE ("the Tenant")

**THE EXECUTORS OF THE ESTATE OF THE LATE SIR IAIN ANDREW NOBLE** lately residing at Ardkinglas and Eilean Iarmain, Baronet, Fearnan Eilean Iarmain, and An t-Eilean Sgitheanach, Isle of Skye the Executors being Lady Noble, Christopher Mackenzie, James Galbraith, Nigel Pollock and Robin Malcolm all c/o Gillespie MacAndrew LLP, 5 Atholl Crescent, Edinburgh, EH3 8EJ ("the Landlord")

### Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord had complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property determined that the Landlord should be given a further extension of one year to complete the works required in terms of Section 25(1) of the Housing (Scotland) Act 2006 ("the Act").

### Background

1. Reference was made to the Determination of the Committee dated 19<sup>th</sup> April 2011 which determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act and that he had failed to ensure that the Property met the repairing standard. The works required by the RSEO were:-
  - (a) To carry out such steps as are necessary to eradicate the rising damp within the walls and floors of the Property;
  - (b) To repair or replace any defective floorings within the Property;
  - (c) To carry out such repair or replacement works as are necessary to render the front door, windows and skylights within the Property properly wind and watertight and capable of being opened and shut properly.
  - (d) Repair or replace the defective wall and roof linings within the Property.
  - (e) Carry out such works as are necessary to render the exterior and roof of the Property wind and watertight and generally to meet the repairing standard.
  - (f) To install suitable banisters and railings for the stairs leading to the first floor and to repair any broken stair treads.

- (g) To carry out such works as are necessary to render the fireplace and surrounds together with the flues, chimney breasts and stacks compliant with the repairing standard.
  - (h) To demolish the bathroom extension at the Property and to replace with a suitable replacement building and to install appropriate bathroom fittings.
  - (i) To carry out such works as are necessary to repair the rainwater disposal system.
  - (j) To repair or replace the lean-to garage at the Property.
  - (k) To install a hardwired interlinked smoke detection system within the Property sufficient to meet current regulations.
  - (l) To provide an electrical safety certificate from a suitably qualified electrician confirming that the Property is compliant with current regulations upon completion of the various works referred to in this Repairing Standard Enforcement Order.
  - (m) After completion of the above works to carry out such redecoration as is required to decorate the Property to an appropriate standard.
2. The RSEO gave the Landlord 8 months from the date of service of the Notice to carry out the works.
  3. Subsequent to the issuing of the RSEO by the Committee, the Committee were contacted on a number of occasions by both the Landlord and the Tenant. The Landlord's Estates, the Committee were advised, did not have sufficient funds to carry out the works at the present time. Both parties confirmed that there were discussions ongoing between the parties with a view to the Tenant being relocated to an alternative Property.
  4. By way of a telephone call to The Private Rented Housing Panel in Glasgow on 6<sup>th</sup> December 2011, the Tenant stated that he now wished to withdraw his application and that the Landlord and Tenant wished to settle matters between themselves.
  5. The Committee then considered the position in relation to this application. In terms of Schedule 2, Paragraph Sub-Section (7), a tenant may withdraw an application at any time. Notwithstanding the tenant's right to withdraw an application the Committee may, despite the withdrawal, continue to determine the application. The Committee considered whether or not they would be prepared to abandon the consideration of this application or not. The Committee noted that the Property was in exceptionally poor condition and was barely habitable. If the Committee were to abandon the application at this stage then there would be no bar on the Landlord reletting to another tenant in the fullness of time. The Committee considered it would be inappropriate, in light of this, to abandon at this stage. By continuing with the application and leaving the RSEO in place this would prevent the Landlord reletting the Property to another party as Section 28(5) of the Act made it an offence for a landlord to relet a property which was subject to an RSEO.

The Committee were, however, conscious that the Landlord and Tenant were seeking to work together to resolve the issues relating to the Property. The Tenant had subsequently advised he was carrying out some of the required improvement works at the Property and invoicing the Landlords with their agreement. The Committee were content to leave the parties to resolve the issues. Accordingly, the Committee, after discussion, resolved to vary the RSEO to allow a further period of one year for the works to be carried out.. The Committee noted that they would have the power to further vary the RSEO and set a specific time limit if, for whatever reason, the Landlord and Tenant did not reach agreement between them or if either party subsequently was not satisfied how matters were progressing between them.

**Decision**

- 6. The decision of the Committee was to grant the Landlord a further period of one year from the date of this Decision to comply with the RSEO.
- 7. The decision of the Committee was unanimous.

**Right of Appeal**

- 8. A landlord or tenant aggrieved by the decision of the Private Rented Housing committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

**Effect of section 63**

- 9. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed ..... E Miller ..... Date..... 27/6/12 .....  
Chairperson